

Filed for intro on 02/12/97  
SENATE BILL 1467 By  
Koella

HOUSE BILL 823  
By Huskey

AN ACT to amend Tennessee Code Annotated, Title 12, Chapter 10, relative to obligations of municipal corporations and public building authorities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-10-111, is hereby amended by deleting subsection (b) thereof and substituting instead the following:

(b) (1) Bonds and notes issued under this chapter in registered form shall be executed in the manner provided for in the Tennessee Public Obligations Registration Act, compiled in title 9, chapter 19.

(2) Bonds and notes, and any interest coupons attached thereto, issued under this chapter which are not in registered form shall be executed in the name of the authority by such officers of the authority and in such manner as the board of directors may direct, and shall be sealed with the corporate seal of the authority. If so provided in the proceedings authorizing the bonds or notes, the facsimile signature of any of the officers of the authority may appear on such bonds or notes and a facsimile of the corporate seal of the authority may appear on the bonds or notes in lieu of the manual signature of such officer and the manual impress of such seal; provided, that at least one (1) of the signatures appearing on such bonds or notes shall be a manual signature. Interest coupons attached to such bonds or notes shall be executed with the facsimile signatures of the officers who shall execute the bonds or notes, who shall adopt as and

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for their own signatures their respective facsimile signatures appearing on such coupons.

(3) Bonds or notes issued under this chapter, and the coupons appurtenant thereto, if any, bearing the signature of any officer in office on the date of signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof, such person shall have ceased to be an officer of the authority.

SECTION 2. Tennessee Code Annotated, Section 12-10-111 is hereby amended by deleting subsection (h) thereof and substituting instead the following:

(h) If, at the time of delivery of the refunding bonds, the obligations to be refunded will not be retired or a valid and timely notice of redemption of the outstanding obligations is not given in accordance with the resolution, indenture or other instrument governing the redemption of the outstanding obligations, then, prior to the issuance of the refunding bonds, the board of directors shall cause to be given a notice of its intention to issue the refunding bonds, The notice shall be given either by mail to the owners of all the outstanding obligations to be refunded at their addresses shown on the bond registration records for the outstanding obligations or given by publication one (1) time each in a newspaper having a general circulation in the municipality with respect to which the corporation was organized and in a financial newspaper published in New York, New York, having a national circulation. The notice shall set forth the estimated date of delivery of the refunding bonds and identify the obligations, or the individual maturities thereof, proposed to be refunded; provided, that if portions of individual maturities are proposed to be refunded the notice shall identify the maturities subject to partial refunding and the aggregate principal amount to be refunded within each maturity. If the issuance of the refunding bonds does not occur as provided in the notice, the governing body shall cause notice thereof to be given as provided

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above. Except as otherwise set forth in this subsection, the notice required pursuant to this subsection shall be given whether or not any of the obligations to be refunded are to be called for redemption.

SECTION 3. Tennessee Code Annotated, Sections 12-10-115 (a)(1 and (a)(2) are hereby amended to insert at the beginning of each, the words and punctuation "Except as provided in subparagraph (b) hereof,".

SECTION 4. Tennessee Code Annotated, 12-10-115 is hereby further amended to redesignate subsection (b) thereof as subsection (c) and add a new subsection (b) as follows:

(b) (1) Notwithstanding subsection (a) hereof, a municipal corporation may enter into a lease, loan agreement, sales contract or operating contract with a public building authority or other contracting party under the provisions of this chapter payable exclusively from the revenues of one or more profits of the municipal corporation, if the governing body of such municipal corporation shall provide by resolution that the lease, lease, loan agreement, sales contract or operating contract shall be so payable. The obligations of the municipal corporation under such a lease, loan agreement, sales contract or operating contract shall be secured solely by a pledge of and lien on the revenues so pledged and, in the case of a utility district, a statutory lien in the nature of a mortgage lien upon any utility system or systems of such district, which pledge and lien shall be in favor of the public building authority or other contracting party pursuant to this chapter, and their assigns, and all such property shall remain subject to such pledge and lien until the payment in full of the obligations of the municipal corporation under the lease, loan corporation shall provide for a lease, loan agreement, sales contract or operating contract solely payable from and secured by such revenues, no recourse shall

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be has for the payment of any obligations thereunder against the general funds of the municipal corporation, nor shall the full faith and credit or taxing power, if any, of the municipal corporation be deemed to be pledged to the payment of said obligations. Said obligations shall not be a debt of the municipal corporation, nor a charge, lien or encumbrance, legal or equitable, upon any property of the municipal corporation or upon any income, receipts or revenues of the municipal corporation other than revenues pledged to they payment of said obligations as provided herein.

(2) The pledge of and lien on revenues and the statutory mortgage lien hereinabove described shall be valid and binding from the time the pledge or lien is created or granted and shall inure to the benefit of the public building authority or contracting party, or their assigns, until the obligations secured are paid and performed in full. The priority of any pledge or lien with respect to competing pledges or liens shall be determined by the date such pledge or lien is created or granted and neither the lease, loan agreement, sales contract or operating contract nor any other instrument granting, creating or giving notice of the pledge or lien need be filed or recorded to preserve or protect the validity or priority of such pledge or lien.

(3) The governing body of a municipal corporation entering into a lease, loan agreement, sales contract or operating agreement described in subsection (b) or subsection (c) hereof shall prescribe and collect, or cause to be prescribed and collected reasonable rates, fees or charges for the services, facilities and commodities of the project or projects, and shall revise such rates, fees, or charges from time to time whenever necessary so that the project or projects shall be and always remain self-supporting. The rates, fees or charges prescribed shall be at least sufficient to produce revenue to provided for all charges prescribed shall be at lest sufficient to produce

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revenue to provide for all expenses of operation and maintenance of the project or projects, including reasonable reserves therefor, and pay when due all bonds and notes and interest thereon and all obligations under any lease, loan agreement, sales contract or operating contract for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reasonable reserves therefor. A municipal corporation described in Section 7-34-102, which enters into a lease, loan agreement, sales contract or operating contract relating to a system or systems included within the definition of "public works" as set forth in Section 7-34-102 shall be governed by the terms and requirements of Section 7-34-115.

(4) A municipal corporation entering into a lease, loan agreement, sales contract or operating contract relating to a project hereunder is authorized to make such covenants and agreements with the public building authority or contracting party as such corporation is authorized to make with and for the benefit of bond holders under any of the laws of this state. The public building authority or contracting party shall have all the remedies provided to bond holders pursuant to Chapter 34 of Title 7 or Chapter 21, Part 3, of Title 9 with respect to the municipal corporations described therein and the revenue pledged by said corporations, or pursuant to Chapter 82 of Title 7 with respect to the municipal corporations described therein and the revenues pledged thereby.

SECTION 5. Tennessee Code Annotated, Section 12-10-116 is hereby deleted and substituted in its place shall be the following:

Any municipal corporation is authorized to enter into such leases, loan agreements, sales contracts or operating contracts by resolution of its governing body or, in the case of such agreements or contracts for the financing of a project or projects eligible to be

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financed pursuant to Chapter 34 of Title 7, by resolution of the board or commission having jurisdiction, control and management of the utility system of said municipal corporation being financed, with an authority or other contracting party with respect to projects or parts thereof, for such term or terms and upon such conditions as may be determined by such governing body, board or commission, as appropriate, notwithstanding and without regard to the restrictions, prohibitions or requirements of any other law, whether public or private.

Section 6. This act shall take effect upon becoming a law, the public welfare requiring it.

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